

AMENDED IN ASSEMBLY APRIL 20, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 511**

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**Introduced by Assembly Member Gipson**

February 23, 2015

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An act to amend Section 3212.1 of, and to repeal and add Sections 3212, 3212.5, 3212.6, 3212.85, and 3212.9 of, the Labor Code, relating to workers' compensation.

### LEGISLATIVE COUNSEL'S DIGEST

AB 511, as amended, Gipson. Workers' compensation.

Existing law establishes a workers' compensation system to compensate an employee for injuries arising out of, and in the course of, his or her employment. Existing law designates illnesses and conditions that constitute a compensable injury for various employees, such as California Highway Patrol members, firefighters, and certain peace officers. These injuries include, but are not limited to, hernia, pneumonia, heart trouble, cancer, meningitis, and exposure to a biochemical substance when the illness or condition develops or manifests itself during a period when the officer or employee is in service of his or her employer, as specified.

This bill would expand the coverage of the above provisions relating to compensable injury, to include other, full-time peace officers described pursuant to specified provisions of law. The bill would also expand the coverage of these provisions to ~~include, upon the approval of an ordinance or resolution adopted by the governing body of the contracting public agency, or the adoption of language to this effect in a city or county charter, or pursuant to the terms and conditions of employment set forth in a collective bargaining agreement,~~ *include a*

custody assistant, correctional officer, security officer, or security assistant employed by a public agency, or a peace officer other than a peace officer to whom these provisions already apply. The bill would also make technical and clarifying changes.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 3212 of the Labor Code is repealed.
- 2 SEC. 2. Section 3212 is added to the Labor Code, to read:
- 3 3212. (a) As used in this act, the term “injury” includes both
- 4 of the following:
- 5 (1) With respect to the following members, a hernia, when any
- 6 part of the hernia develops or manifests itself during a period while
- 7 the member is in the service of the office, staff, division,
- 8 department, or unit:
- 9 (A) Members of a sheriff’s office or the California Highway
- 10 Patrol, district attorney’s staff of inspectors and investigators, or
- 11 police or fire departments of cities, counties, cities and counties,
- 12 districts, or other public or municipal corporations or political
- 13 subdivisions, whether those members are volunteers, or are partly
- 14 paid or fully paid.
- 15 (B) Active firefighting members of the Department of Forestry
- 16 and Fire Protection whose duties require firefighting or of any
- 17 county forestry or firefighting department or unit, whether those
- 18 members are volunteers, or are partly paid or fully paid.
- 19 (C) Members of the warden service of the Wildlife Branch of
- 20 the Department of Fish and Wildlife whose principal duties consist
- 21 of active law enforcement service.
- 22 (D) Regular salaried county or city and county peace officers.
- 23 (E) Full-time peace officers, other than those described in
- 24 subparagraph (A) or (D), as described in Chapter 4.5 (commencing
- 25 with Section 830) of Title 3 of Part 2 of the Penal Code.
- 26 (F) ~~Upon the approval of an ordinance or resolution adopted by~~
- 27 ~~the governing body of the contracting public agency, or the~~
- 28 ~~adoption of language to this effect in a city or county charter, or~~
- 29 ~~pursuant to the terms and conditions of employment set forth in a~~
- 30 ~~collective bargaining agreement, a~~ custody assistant, correctional
- 31 officer, security officer, or security assistant employed by a public

1 agency, or a peace officer other than a peace officer described in  
2 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2  
3 of the Penal Code.

4 (2) With respect to the following members, pneumonia and  
5 heart trouble that develops or manifests itself during a period while  
6 the member is in the service of the department:

7 (A) Members of fire departments.

8 (B) Members of county forestry or firefighting departments.

9 (C) Active firefighting members of the Department of Forestry  
10 and Fire Protection whose duties require firefighting.

11 (D) Members of the warden service of the Wildlife Branch of  
12 the Department of Fish and Wildlife whose principal duties consist  
13 of active law enforcement service.

14 ~~(E) Upon the approval of an ordinance or resolution adopted~~  
15 ~~by the governing body of the contracting public agency, or the~~  
16 ~~adoption of language to this effect in a city or county charter, or~~  
17 ~~pursuant to the terms and conditions of employment set forth in a~~  
18 ~~collective bargaining agreement, a~~ A custody assistant, correctional  
19 officer, security officer, or security assistant employed by a public  
20 agency, or a peace officer other than a peace officer described in  
21 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2  
22 of the Penal Code.

23 (b) The compensation that is awarded for the hernia, heart  
24 trouble, or pneumonia shall include full hospital, surgical, medical  
25 treatment, disability indemnity, and death benefits, as provided by  
26 the workers' compensation laws of this state.

27 (c) Hernia, heart trouble, or pneumonia developing or  
28 manifesting as described in this section shall be presumed to arise  
29 out of and in the course of employment. This presumption is  
30 disputable and may be controverted by other evidence, but unless  
31 controverted by other evidence, the appeals board is bound to find  
32 in accordance with it. The presumption shall be extended to a  
33 member following termination of service for a period of three  
34 calendar months for each full year of the requisite service, but not  
35 to exceed 60 months in any circumstance, commencing with the  
36 last date actually worked in the specified capacity.

37 (d) Hernia, heart trouble, or pneumonia developing or  
38 manifesting as described in this section shall not be attributed to  
39 any disease existing prior to that development or manifestation.

(e) This section does not apply to persons whose principal duties are clerical or otherwise do not clearly fall within the scope of active law enforcement, including custody and corrections, firefighting, or emergency first aid response service, such as stenographers, receptionists, and other office workers.

SEC. 3. Section 3212.1 of the Labor Code is amended to read:

3212.1. (a) This section applies to all of the following:

(1) Active firefighting members, whether those members are volunteers, or are partly paid or fully paid, of all of the following fire departments:

(A) A fire department of a city, county, city and county, district, or other public or municipal corporation or political subdivision.

(B) A fire department of the University of California and the California State University.

(C) The Department of Forestry and Fire Protection.

(D) A county forestry or firefighting department or unit.

(2) Active firefighting members of a fire department that serves a United States Department of Defense installation and who are certified by the Department of Defense as meeting its standards for firefighters.

(3) Active firefighting members of a fire department that serves a National Aeronautics and Space Administration installation and who adhere to training standards established in accordance with Article 4 (commencing with Section 13155) of Chapter 1 of Part 2 of Division 12 of the Health and Safety Code.

(4) Part-time peace officers, as defined in Section 830.1, subdivision (a) of Section 830.2, and subdivisions (a) and (b) of Section 830.37, of the Penal Code, who are primarily engaged in active law enforcement activities, and full-time peace officers described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(5) (A) Fire and rescue services coordinators who work for the Office of Emergency Services.

(B) For purposes of this paragraph, “fire and rescue services coordinators” means coordinators with any of the following job classifications: coordinator, senior coordinator, or chief coordinator.

~~(6) Upon the approval of an ordinance or resolution adopted by the governing body of the contracting public agency, or the adoption of language to this effect in a city or county charter, or~~

1 ~~pursuant to the terms and conditions of employment set forth in a~~  
2 ~~collective bargaining agreement, a~~ A custody assistant, correctional  
3 officer, security officer, or security assistant employed by a public  
4 agency, or a peace officer other than a peace officer described in  
5 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2  
6 of the Penal Code.

7 (b) The term “injury,” as used in this division, includes cancer,  
8 including leukemia, that develops or manifests itself during a period  
9 in which any member described in subdivision (a) is in the service  
10 of the department or unit, if the member demonstrates that he or  
11 she was exposed, while in the service of the department or unit,  
12 to a known carcinogen as defined by the International Agency for  
13 Research on Cancer, or as defined by the director.

14 (c) The compensation that is awarded for cancer shall include  
15 full hospital, surgical, medical treatment, disability indemnity, and  
16 death benefits, as provided by this division.

17 (d) The cancer so developing or manifesting itself in these cases  
18 shall be presumed to arise out of and in the course of the  
19 employment. This presumption is disputable and may be  
20 controverted by evidence that the primary site of the cancer has  
21 been established and that the carcinogen to which the member has  
22 demonstrated exposure is not reasonably linked to the disabling  
23 cancer. Unless so controverted, the appeals board is bound to find  
24 in accordance with the presumption. This presumption shall be  
25 extended to a member following termination of service for a period  
26 of three calendar months for each full year of the requisite service,  
27 but not to exceed 120 months in any circumstance, commencing  
28 with the last date actually worked in the specified capacity.

29 (e) The amendments to this section enacted during the 1999  
30 portion of the 1999–2000 Regular Session shall be applied to  
31 claims for benefits filed or pending on or after January 1, 1997,  
32 including, but not limited to, claims for benefits filed on or after  
33 that date that have previously been denied, or that are being  
34 appealed following denial.

35 (f) This section shall be known, and may be cited, as the William  
36 Dallas Jones Cancer Presumption Act of 2010.

37 SEC. 4. Section 3212.5 of the Labor Code is repealed.

38 SEC. 5. Section 3212.5 is added to the Labor Code, to read:

39 3212.5. (a) The term “injury” as used in this division includes  
40 heart trouble and pneumonia that develops or manifests itself

1 during a period while a person described in this subdivision is in  
2 the service of the agency, department, or office as described in  
3 this subdivision, and the compensation that is awarded for heart  
4 trouble or pneumonia as described in this section shall include full  
5 hospital, surgical, medical treatment, disability indemnity, and  
6 death benefits as provided by the provisions of this division for  
7 the following persons when those persons are employed upon a  
8 regular, full-time salary:

9 (1) A peace officer described in Chapter 4.5 (commencing with  
10 Section 830) of Title 3 of Part 2 of the Penal Code who is employed  
11 on a regular, full-time salary.

12 (2) An inspector or investigator in a district attorney's office of  
13 a county who is employed on a regular, full-time salary.

14 (3) ~~Upon the approval of an ordinance or resolution adopted by~~  
15 ~~the governing body of the contracting public agency, or the~~  
16 ~~adoption of language to this effect in a city or county charter, or~~  
17 ~~pursuant to the terms and conditions of employment set forth in a~~  
18 ~~collective bargaining agreement, a~~ A custody assistant, correctional  
19 officer, security officer, or security assistant employed by a public  
20 agency, or a peace officer other than a peace officer described in  
21 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2  
22 of the Penal Code.

23 (b) The heart trouble or pneumonia so developing or manifesting  
24 itself shall be presumed to arise out of and in the course of the  
25 employment; provided, however, that the person shall have served  
26 five years or more in that capacity before the presumption shall  
27 arise as to the compensability of heart trouble so developing or  
28 manifesting itself. This presumption is disputable and may be  
29 controverted by other evidence, but, unless so controverted, the  
30 appeals board is bound to find in accordance with it. This  
31 presumption shall be extended to a person following termination  
32 of service for a period of three calendar months for each full year  
33 of the requisite service, not to exceed 60 months in any  
34 circumstance, commencing with the last date actually worked in  
35 the specified capacity.

36 (c) The heart trouble or pneumonia so developing or manifesting  
37 itself in these cases shall in no case be attributed to any disease  
38 existing prior to its development or manifestation.

39 SEC. 6. Section 3212.6 of the Labor Code is repealed.

40 SEC. 7. Section 3212.6 is added to the Labor Code, to read:

1     3212.6. (a) (1) The term “injury” includes tuberculosis that  
2 develops or manifests itself during a period while a person  
3 described in this paragraph is in the service of the agency,  
4 department, or office as described in this paragraph and the  
5 compensation that is awarded for the tuberculosis shall include  
6 full hospital, surgical, medical treatment, disability indemnity, and  
7 death benefits as provided by the provisions of this division for  
8 the following persons:

9     (A) A peace officer described in Chapter 4.5 (commencing with  
10 Section 830) of Title 3 of Part 2 of the Penal Code if that person  
11 is employed upon a regular, full-time salary.

12     (B) An inspector or investigator in a district attorney’s office  
13 of a county who is employed on a regular, full-time salary.

14     (C) A prison or jail guard or correctional officer who is  
15 employed by a public agency if that person is employed upon a  
16 regular, full-time salary.

17     ~~(D) Upon the approval of an ordinance or resolution adopted~~  
18 ~~by the governing body of the contracting public agency, or the~~  
19 ~~adoption of language to this effect in a city or county charter, or~~  
20 ~~pursuant to the terms and conditions of employment set forth in a~~  
21 ~~collective bargaining agreement, a~~ custody assistant, correctional  
22 officer, security officer, or security assistant employed by a public  
23 agency, or a peace officer other than a peace officer described in  
24 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2  
25 of the Penal Code, if that person is employed upon a regular,  
26 full-time salary.

27     (E) A member of a fire department of any city, county, or  
28 district, or other public or municipal corporations or political  
29 subdivisions, if that person is employed on a regular, fully paid  
30 basis.

31     (F) An active firefighting member of the Department of Forestry  
32 and Fire Protection whose duties require firefighting and first aid  
33 response services, or of a county forestry or firefighting department  
34 or unit, if that person is employed on a regular, fully paid basis.

35     (2) The tuberculosis developing or manifesting itself as  
36 described in paragraph (1) shall be presumed to arise out of and  
37 in the course of the employment. This presumption is disputable  
38 and may be controverted by other evidence, but unless so  
39 controverted, the appeals board is bound to find in accordance  
40 with it. This presumption shall be extended to a person described

1 in paragraph (1) following termination of service for a period of  
2 three calendar months for each full year of the requisite service,  
3 but not to exceed 60 months in any circumstance, commencing  
4 with the last date actually worked in the specified capacity.

5 (b) A public entity may require applicants for employment in  
6 firefighting positions who would be entitled to the benefits granted  
7 by this section to be tested for infection for tuberculosis.

8 (c) This section does not apply to persons whose principal duties  
9 are clerical or otherwise do not clearly fall within the scope of  
10 active law enforcement, including custody and corrections,  
11 firefighting, or emergency first aid response service, such as  
12 stenographers, receptionists, and other office workers.

13 SEC. 8. Section 3212.85 of the Labor Code is repealed.

14 SEC. 9. Section 3212.85 is added to the Labor Code, to read:

15 3212.85. (a) The term “injury,” as used in this division,  
16 includes illness or resulting death due to exposure to a biochemical  
17 substance that develops or occurs during a period in which a person  
18 described in this subdivision is in the service of the agency,  
19 department, or unit as described in this subdivision:

20 (1) A part-time peace officer described in Sections 830.1 to  
21 830.5, inclusive, of, or a full-time peace officer described in,  
22 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2  
23 of the Penal Code.

24 (2) A member of a fire department.

25 ~~(3) Upon the approval of an ordinance or resolution adopted by~~  
26 ~~the governing body of the contracting public agency, or the~~  
27 ~~adoption of language to this effect in a city or county charter, or~~  
28 ~~pursuant to the terms and conditions of employment set forth in a~~  
29 ~~collective bargaining agreement, a~~ A custody assistant, correctional  
30 officer, security officer, or security assistant employed by a public  
31 agency, or a peace officer other than a peace officer described in  
32 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2  
33 of the Penal Code.

34 (b) The compensation that is awarded for injury pursuant to this  
35 section shall include full hospital, surgical, medical treatment,  
36 disability indemnity, and death benefits, as provided by this  
37 division.

38 (c) The injury that develops or manifests itself in these cases  
39 shall be presumed to arise out of, and in the course of, the  
40 employment. This presumption is disputable and may be



1 controverted by other evidence. Unless controverted, the appeals  
2 board is bound to find in accordance with the presumption. This  
3 presumption shall be extended to a person described in subdivision  
4 (a) following termination of service for a period of three calendar  
5 months for each full year of the requisite service, but not to exceed  
6 60 months in any circumstance, commencing with the last date  
7 actually worked in the specified capacity.

8 (d) For purposes of this section, the following definitions apply:

9 (1) "Biochemical substance" means any biological or chemical  
10 agent that may be used as a weapon of mass destruction, including,  
11 but not limited to, any chemical warfare agent, weaponized  
12 biological agent, or nuclear or radiological agent, as these terms  
13 are defined in Section 11417 of the Penal Code.

14 (2) "Member of a fire department" includes, but is not limited  
15 to, an apprentice, volunteer, partly paid, or fully paid member of  
16 any of the following:

17 (A) A fire department of a city, county, city and county, district,  
18 or other public or municipal corporation or political subdivision.

19 (B) A fire department of the University of California and the  
20 California State University.

21 (C) The Department of Forestry and Fire Protection.

22 (D) A county forestry or firefighting department or unit.

23 SEC. 10. Section 3212.9 of the Labor Code is repealed.

24 SEC. 11. Section 3212.9 is added to the Labor Code, to read:

25 3212.9. (a) The term "injury" includes meningitis that develops  
26 or manifests itself when one of the following persons is in the  
27 service of the agency, department, or unit as described in this  
28 subdivision and the compensation that is awarded for meningitis  
29 shall include full hospital, surgical, medical treatment, disability  
30 indemnity, and death benefits as provided by this division:

31 (1) A peace officer described in Chapter 4.5 (commencing with  
32 Section 830) of Title 3 of Part 2 *of the* Penal Code who is employed  
33 on a regular, full-time salary.

34 (2) An inspector or investigator in a district attorney's office of  
35 a county whose principal duties consist of active law enforcement  
36 service and who is employed on a regular, full-time salary.

37 (3) A member of a fire department of any city, county, or  
38 district, or other public or municipal corporation or political  
39 subdivision, or a county forestry or firefighting department or unit,  
40 who is employed on a regular, full-time salary.

1     (4) ~~Upon the approval of an ordinance or resolution adopted by~~  
2 ~~the governing body of the contracting public agency, or the~~  
3 ~~adoption of language to this effect in a city or county charter, or~~  
4 ~~pursuant to the terms and conditions of employment set forth in a~~  
5 ~~collective bargaining agreement, a~~ A custody assistant, correctional  
6 officer, security officer, or security assistant employed by a public  
7 agency, or a peace officer other than a peace officer described in  
8 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2  
9 of the Penal Code who is employed on a regular, full-time salary.

10    (b) For purposes of this section, meningitis shall be presumed  
11 to arise out of, and in the course of, the employment. This  
12 presumption is disputable and may be controverted by other  
13 evidence, but unless so controverted, the appeals board is bound  
14 to find in accordance with it. This presumption shall be extended  
15 to a person following termination of service for a period of three  
16 calendar months for each full year of the requisite service, but not  
17 to exceed 60 months in any circumstance, commencing with the  
18 last date actually worked in the specified capacity.

19    (c) This section does not apply to persons whose principal duties  
20 are clerical or otherwise do not clearly fall within the scope of  
21 active law enforcement, including custody and corrections, or  
22 firefighting, such as stenographers, receptionists, and other office  
23 workers.